

HB 2013-2
(LC 1390)
3/2/23 (SCT/ps)

Requested by Representative BYNUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2013**

1 In line 2 of the printed bill, after “alcohol” insert “; creating new pro-
2 visions; amending ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190,
3 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327,
4 471.329, 471.331, 471.392, 471.404, 471.412, 473.045, 473.065 and 473.150; and
5 prescribing an effective date”.

6 Delete lines 4 through 8 and insert:

7 **“SECTION 1.** ORS 471.155 is amended to read:

8 “471.155. (1) The Oregon Liquor and Cannabis Commission shall provide
9 for the licensing of persons and cities within the state to manufacture, dis-
10 tribute, take orders for and sell spirits, wines, beer and other alcoholic li-
11 quors. Except as provided in subsection (2) of this section, the holder of a
12 brewery, winery, wholesale, warehouse, grower sales privilege or brewery-
13 public house license or the holder of a [*wine self-distribution*] **direct to**
14 **retailer** permit shall give, and at all times maintain on file with the com-
15 mission, a bond with a corporate surety authorized to transact business in
16 this state. The bond shall be in form and amount acceptable to the com-
17 mission, shall be payable to the commission and conditioned that the licensee
18 or permittee will pay any fine imposed for any violation of any provision of
19 the Liquor Control Act and that the licensee or permittee will pay all license
20 fees, privilege taxes, taxes imposed under ORS 473.045 and other taxes on
21 alcoholic liquors, together with penalties and interest thereon, levied or as-

1 sessed against the licensee or permittee under statutes relating to the
2 importation, manufacture, distribution, sale or taxation of alcoholic liquors
3 in the State of Oregon.

4 “(2) Under such conditions as the commission may prescribe, the holder
5 of a brewery, winery, wholesale, warehouse, grower sales privilege or
6 brewery-public house license or the holder of a [*wine self-distribution*] **direct**
7 **to retailer** permit may deposit, in lieu of the bond required by subsection
8 (1) of this section, the equivalent value in cash, bank letters of credit re-
9 cognized by the State Treasurer or negotiable securities of a character ap-
10 proved by the State Treasurer. The deposit is to be made in a bank or trust
11 company for the benefit of the commission. Interest on deposited funds or
12 securities shall accrue to the depositor.

13 **“SECTION 2.** ORS 471.175 is amended to read:

14 “471.175. (1) The holder of a full on-premises sales license may sell by the
15 drink at retail wine, malt beverages, cider and distilled liquor. Except as
16 provided in this section and ORS 471.176, all alcoholic beverages sold under
17 a full on-premises sales license must be consumed on the licensed premises.

18 “(2) A full on-premises sales license may be issued only to **a**:

19 “(a) [A] Nonprofit private club, as described in subsection [(9)] **(11)** of this
20 section.

21 “(b) [A] Public passenger carrier as provided in ORS 471.182.

22 “(c) [A] Commercial establishment, as defined in ORS 471.001 (2).

23 “(d) [A] Public location that does not qualify for licensing under para-
24 graphs (a) to (c) of this subsection if:

25 “(A) Food is cooked and served at the location;

26 “(B) The predominant business activity at the location is other than the
27 preparation or serving of food or the serving of alcohol; and

28 “(C) The location meets any minimum food service requirements estab-
29 lished by Oregon Liquor and Cannabis Commission rule.

30 “(e) [A] Caterer, subject to the requirements of ORS 471.184.

1 “(3) The holder of a full on-premises sales license shall allow a patron to
2 remove a partially consumed bottle of wine from the licensed premises if the
3 wine is served in conjunction with the patron’s meal, the patron is not a
4 minor and the patron is not visibly intoxicated.

5 “(4) The holder of a full on-premises sales license may purchase any dis-
6 tilled liquor from an agent of the commission appointed pursuant to ORS
7 471.750 at a discount of not more than five percent off the regular listed price
8 fixed by the commission, together with all taxes, in a manner prescribed by
9 commission rule. For purposes of compensation by the commission, the ap-
10 pointed agent shall be credited with such sales at full retail cost. The com-
11 mission may not require the licensee to purchase more than one container
12 of distilled liquor at a time if the distilled liquor:

13 “(a) Except as provided in subsection [(10)] **(12)** of this section, has a re-
14 tail sales price of \$30 or more per container;

15 “(b) Is available through a distributor in the United States that does not
16 require the commission to acquire more than one case of the distilled liquor
17 in a single transaction;

18 “(c) Is not regularly stocked by the commission; and

19 “(d) Is ordered in a 750 milliliter container size if available in that size.

20 “(5) The holder of a full on-premises sales license may purchase distilled
21 liquor only from a retail sales agent of the commission or from another
22 person licensed under this section who has purchased the distilled liquor
23 from a retail sales agent of the commission.

24 **“(6) The holder of a full on-premises sales license may purchase for
25 sale at retail malt beverages, wine and cider only from a holder of a
26 license or permit issued by the commission that authorizes sales of
27 malt beverages, wine or cider at wholesale to licensees of the com-
28 mission.**

29 “[(6)] **(7)** The holder of a full on-premises sales license may sell for con-
30 sumption off the licensed premises malt beverages, wine and cider in securely

1 covered containers provided by the consumer that have capacities of not
2 more than two gallons each.

3 “[7] (8) The holder of a full on-premises sales license may sell for con-
4 sumption off the licensed premises malt beverages, wine and cider in
5 factory-sealed containers.

6 “[8] (9) The holder of a full on-premises sales license may deliver malt
7 beverages, wine and cider that are sold for off-premises consumption under
8 the privileges of the license to retail customers in this state without a direct
9 shipper permit issued under ORS 471.282. Any deliveries by the licensee are
10 subject to any rules adopted by the commission relating to deliveries made
11 under this subsection.

12 **“(10) On or before the 20th day of each month, the holder of a full**
13 **on-premises sales license shall submit to the commission a report**
14 **showing the quantity of malt beverages, wine or cider received from**
15 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
16 **ing the immediately preceding calendar month, and any other infor-**
17 **mation required by the commission by rule.**

18 “[9] (11) A nonprofit private club, including but not limited to a frater-
19 nal or veterans organization, may qualify for a full on-premises sales license
20 under this section only if the club meets any minimum membership, nonprofit
21 status and food service requirements established by commission rule.

22 “[10] (12) Beginning January 1, 2017, the commission may annually ad-
23 just the price threshold established in subsection (4)(a) of this section by a
24 percentage equal to the percentage change in the Consumer Price Index for
25 All Urban Consumers, West Region (All Items), as published by the Bureau
26 of Labor Statistics of the United States Department of Labor. However, the
27 commission may not adjust the price threshold to be less than \$30.

28 **“(13) The commission may adopt rules to carry out this section.**

29 **“SECTION 3.** ORS 471.178 is amended to read:

30 “471.178. (1) The holder of a limited on-premises sales license may sell by

1 the drink at retail wine, malt beverages and cider. Except as provided in this
2 section, all alcoholic beverages sold under a limited on-premises sales license
3 must be consumed on the licensed premises.

4 “(2) The holder of a limited on-premises sales license may sell malt
5 beverages, wine and cider in factory-sealed containers for consumption off
6 the licensed premises.

7 “(3) The holder of a limited on-premises sales license may sell for con-
8 sumption off the licensed premises malt beverages, wine and cider in securely
9 covered containers provided by the consumer and that have capacities of not
10 more than two gallons each.

11 “(4) The holder of a limited on-premises sales license may deliver malt
12 beverages, wine and cider that are sold for off-premises consumption under
13 the privileges of the license to retail customers in this state without a direct
14 shipper permit issued under ORS 471.282. Any deliveries by the holder of a
15 limited on-premises sales license are subject to any rules adopted by the
16 commission relating to deliveries made under this subsection.

17 “(5) The holder of a limited on-premises sales license shall allow a patron
18 to remove a partially consumed bottle of wine from the licensed premises if
19 the wine is served in conjunction with the patron’s meal, the patron is not
20 a minor and the patron is not visibly intoxicated.

21 **“(6) The holder of a limited on-premises sales license may purchase**
22 **for sale at retail malt beverages, wine and cider only from the holder**
23 **of a license or permit issued by the commission that authorizes sales**
24 **of malt beverages, wine or cider at wholesale to licensees of the com-**
25 **mission.**

26 **“(7) On or before the 20th day of each month, the holder of a limited**
27 **on-premises sales license shall submit to the commission a report**
28 **showing the quantity of malt beverages, wine or cider received from**
29 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
30 **ing the immediately preceding calendar month, and any other infor-**

1 **mation required by the commission by rule.**

2 **“(8) The commission may adopt rules to carry out this section.**

3 **“SECTION 4.** ORS 471.184 is amended to read:

4 “471.184. (1) The holder of a full or limited on-premises sales license may
5 cater a temporary event at a location other than the licensed premises if the
6 event is not open to the general public. Catering of an event under this
7 subsection must be pursuant to a contract with a client. The contract must
8 provide that the licensee will furnish food and beverage services for no more
9 than 100 patrons. The licensee must serve food as required by rules of the
10 commission. The licensee may cater events under this subsection without
11 giving advance notice to the Oregon Liquor and Cannabis Commission if,
12 before the event occurs, the commission gives written approval to the
13 licensee authorizing catering pursuant to this subsection. Events catered
14 under the provisions of this subsection must meet all requirements for en-
15 closure of premises that may be imposed by the commission for the purposes
16 of this section. Notwithstanding ORS 471.175 (3), [(6) and (7)] **(7) and (8)** and
17 471.178 (2) to (5), the licensee may not permit patrons of the event to remove
18 any alcoholic beverages from the premises of the event.

19 “(2) In addition to catered events under subsection (1) of this section, the
20 commission may by rule allow the exercise of the privileges of a full or
21 limited on-premises sales license at temporary events held at locations other
22 than the licensed premises. The commission may:

23 “(a) Require notice to the commission before the exercise of license priv-
24 ileges at temporary events under this subsection;

25 “(b) Require that written approval by the commission be obtained before
26 the exercise of license privileges at temporary events under this subsection;

27 “(c) Establish eligibility criteria for the exercise of license privileges at
28 temporary events under this subsection; and

29 “(d) Establish fees reasonably calculated to cover administrative expenses
30 incurred by the commission in administering this subsection.

1 **“SECTION 5.** ORS 471.186 is amended to read:

2 “471.186. (1) The holder of an off-premises sales license may sell factory-
3 sealed containers of malt beverages, wine and cider for consumption off the
4 licensed premises.

5 “(2) The holder of an off-premises sales license may sell for consumption
6 off the licensed premises malt beverages, wine and cider in securely covered
7 containers supplied by the consumer and that have capacities of not more
8 than two gallons each.

9 “(3) The holder of an off-premises sales license may provide sample tasting
10 of alcoholic beverages on the licensed premises if the licensee applies in
11 writing to the Oregon Liquor and Cannabis Commission and receives written
12 approval from the commission to conduct tastings on the premises. Tastings
13 must be limited to the alcoholic beverages that may be sold under the priv-
14 ileges of the license.

15 “(4) An off-premises sales license may not be issued for use at a premises
16 that is mobile.

17 “(5) Except as provided in ORS 471.402, a manufacturer or wholesaler may
18 not provide or pay for sample tastings of alcoholic beverages for the public
19 on premises licensed under an off-premises sales license.

20 “(6) The holder of an off-premises sales license may deliver malt
21 beverages, wine or cider that is sold under the privileges of the license to
22 retail customers in this state without a direct shipper permit issued under
23 ORS 471.282. Any deliveries by the holder of an off-premises sales license are
24 subject to any rules adopted by the commission relating to deliveries made
25 under this subsection. Deliveries under this subsection:

26 “(a) May be made only to a person who is at least 21 years of age;

27 “(b) May be made only for personal use and not for the purpose of resale;

28 and

29 “(c) Must be made in containers that are conspicuously labeled with the
30 words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS

1 OR OLDER REQUIRED FOR DELIVERY[.]’ or similar language adopted
2 by the commission by rule.

3 “(7) The holder of an off-premises sales license that makes deliveries of
4 malt beverages, wine or cider under subsection (6) of this section shall take
5 all actions necessary to ensure that a carrier used by the licensee does not
6 deliver any malt beverages, wine or cider unless the carrier:

7 “(a) Obtains the signature of the recipient of the malt beverages, wine
8 or cider upon delivery;

9 “(b) Verifies by inspecting government-issued photo identification that the
10 recipient is at least 21 years of age; and

11 “(c) Determines that the recipient is not visibly intoxicated at the time
12 of delivery.

13 “(8) Any person who knowingly or negligently delivers malt beverages,
14 wine or cider under the provisions of this section to a person under 21 years
15 of age, or who knowingly or negligently delivers malt beverages, wine or
16 cider under the provisions of this section to a visibly intoxicated person,
17 violates ORS 471.410.

18 “(9) If a court determines that deliveries of malt beverages, wine or cider
19 under subsection (6) of this section cannot be restricted to holders of off-
20 premises sales licenses, and the decision is a final judgment that is no longer
21 subject to appeal, the holder of an off-premises sales license may not make
22 deliveries of malt beverages, wine or cider under the provisions of subsection
23 (6) of this section after entry of the final judgment.

24 “(10) **The holder of an off-premises sales license may purchase for**
25 **sale at retail malt beverages, wine and cider only from the holder of**
26 **a license or permit issued by the commission that authorizes sales of**
27 **malt beverages, wine or cider at wholesale to licensees of the com-**
28 **mission.**

29 “(11) **On or before the 20th day of each month, the holder of an**
30 **off-premises sales license shall submit to the commission a report**

1 **showing the quantity of malt beverages, wine or cider received from**
2 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
3 **ing the immediately preceding calendar month, and any other infor-**
4 **mation required by the commission by rule.**

5 “[~~(10)~~] (12) The [*Oregon Liquor and Cannabis*] commission may adopt
6 rules to carry out this section.

7 **“SECTION 6.** ORS 471.190 is amended to read:

8 “471.190. (1) The holder of a temporary sales license may:

9 “(a) Sell at retail by the drink wine, malt beverages, cider and distilled
10 liquor.

11 “(b) Sell for consumption off the licensed premises wine, malt beverages
12 and cider in factory-sealed containers.

13 “(c) Sell for consumption off the licensed premises wine, malt beverages
14 and cider in securely covered containers supplied by the consumer and hav-
15 ing capacities of not more than two gallons each.

16 “(2) Distilled liquor served by the holder of a temporary sales license
17 must be purchased from a retail sales agent of the Oregon Liquor and
18 Cannabis Commission. The holder of a temporary sales license must provide
19 food service as required by commission rule.

20 “(3) A temporary sales license may be issued only to:

21 “(a) Nonprofit or charitable organizations that are registered with the
22 state.

23 “(b) A political committee that has filed a statement of organization un-
24 der ORS 260.039 or 260.042.

25 “(c) State agencies.

26 “(d) Local governments, and agencies and departments of local govern-
27 ments.

28 “(e) Persons not otherwise described in this subsection, as long as the
29 applicant submits a plan that is approved by the commission detailing how
30 minors will be prevented from gaining access to alcoholic beverages and how

1 minors will be prevented from gaining access to any portion of the licensed
2 premises prohibited to minors under ORS 471.430 (3) or any rule adopted by
3 the commission.

4 “(4) The commission may by rule establish additional eligibility require-
5 ments for temporary sales licenses.

6 “(5) Subject to such qualifications as the commission may establish by
7 rule, persons who hold a full or limited on-premises sales license are eligible
8 for temporary sales licenses.

9 “(6) A temporary sales license issued to a person described in subsection
10 (3)(a), (c) or (d) of this section authorizes the holder of the temporary sales
11 license to:

12 “(a)(A)(i) Have on a single licensed premises more than one location at
13 which wine, malt beverages or cider is sold at retail by the drink or for
14 consumption off the licensed premises; and

15 “(ii) Have on a single licensed premises more than one location at which
16 wine, malt beverages, cider or distilled liquor is sold at retail by the drink;
17 or

18 “(B) Have up to three separate premises in this state licensed under the
19 temporary sales license at which wine, malt beverages or cider is sold for
20 consumption off the licensed premises; and

21 “(b) Operate for up to 30 days, whether or not the days are consecutive.

22 “(7) The commission may adopt rules to carry out subsection (6) of this
23 section.

24 “(8) A person holding a temporary sales license is not required to obtain
25 an intermittent temporary restaurant, seasonal temporary restaurant,
26 single-event temporary restaurant license or mobile unit license under ORS
27 chapter 624 if only wine, malt beverages and cider in single-service contain-
28 ers are served and only nonperishable food items that are exempted from
29 licensure by the Oregon Health Authority are served.

30 “(9) Employees and volunteers serving alcoholic beverages for a nonprofit

1 or charitable organization licensed under this section are not required to
2 have service permits or to complete an alcohol server education program and
3 examination under ORS 471.542. The commission by rule may establish edu-
4 cation requirements for servers described in this subsection.

5 “(10) Notwithstanding ORS 471.392 to 471.400, a temporary sales license
6 may be issued to a nonprofit trade association that has a membership pri-
7 marily composed of persons that hold winery licenses issued under ORS
8 471.223 or grower sales privilege licenses issued under ORS 471.227.

9 **“(11)(a) The holder of a temporary sales license may purchase for**
10 **sale at retail malt beverages, wine and cider only from the holder of**
11 **a license or permit issued by the commission that authorizes sales of**
12 **malt beverages, wine or cider at wholesale to licensees of the com-**
13 **mission.**

14 **“(b) The holder of a temporary sales license that is an entity de-**
15 **scribed in subsection (3)(a) to (d) of this section may accept donations**
16 **of malt beverages, wine or cider in accordance with rules adopted by**
17 **the commission.**

18 **“(12) On or before the 20th day of each month, the holder of a**
19 **temporary sales license shall submit to the commission a report**
20 **showing the quantity of malt beverages, wine or cider received from**
21 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
22 **ing the immediately preceding calendar month, and any other infor-**
23 **mation required by the commission by rule.**

24 **“(13) The commission may adopt rules to carry out this section.**

25 **“SECTION 7. ORS 471.200 is amended to read:**

26 **“471.200. (1) A brewery-public house license allows the licensee:**

27 **“(a) To manufacture on the licensed premises, store, transport, sell to**
28 **wholesale malt beverage and wine licensees of the Oregon Liquor and**
29 **Cannabis Commission and export malt beverages;**

30 **“(b) To sell malt beverages manufactured on or off the licensed premises**

1 at retail for consumption on or off the premises;

2 “(c) To sell malt beverages in brewery-sealed packages at retail directly
3 to the consumer for consumption off the premises;

4 “(d) To sell on the licensed premises at retail malt beverages manufac-
5 tured on or off the licensed premises in unpasteurized or pasteurized form
6 directly to the consumer for consumption off the premises, delivery of which
7 may be made in a securely covered container supplied by the consumer;

8 “(e) To sell wine and cider at retail for consumption on or off the prem-
9 ises;

10 “(f) To sell for consumption off the premises wines and cider in securely
11 covered containers supplied by the consumer and having capacities of not
12 more than two gallons each;

13 “(g) To conduct the activities, except manufacturing, described in para-
14 graphs (a) to (f) of this subsection at two locations other than the premises
15 where the manufacturing occurs;

16 “(h) To obtain a special events brewery-public house license entitling the
17 holder to conduct the activities allowed under paragraphs (b) to (f) of this
18 subsection at a designated location other than the location set forth in the
19 brewery-public house license for a period not exceeding five days;

20 “(i) To distribute malt beverages manufactured at the licensed premises
21 to any other premises licensed to the same licensee, whether a manufacturer,
22 wholesaler or retail premises; and

23 “(j) To distribute for export, in any amount, malt beverages manufactured
24 at the licensed premises.

25 “(2) In addition to the privileges specified in subsection (1) of this section,
26 in any calendar year a brewery-public house licensee may sell at wholesale
27 and distribute to licensees of the commission no more than 7,500 barrels of
28 malt beverages produced by the brewery-public house licensee.

29 “(3) A brewery-public house licensee, or any person having an interest in
30 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except

1 as otherwise provided by this section and ORS 471.396, may not acquire or
2 hold any right, title, lien, claim or other interest, financial or otherwise, in,
3 upon or to the premises, equipment, business or merchandise of any man-
4 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
5 licensee, or any person having an interest in the licensee, is also a man-
6 ufacturer for the purposes of ORS 471.394 and, except as otherwise provided
7 by this section and ORS 471.396, may not acquire or hold any right, title,
8 lien, claim or other interest, financial or otherwise, in, upon or to the
9 premises, equipment, business or merchandise of any other retail licensee,
10 as defined in ORS 471.392.

11 “(4)(a) Except as provided in this subsection, a brewery-public house
12 licensee, or any person having an interest in the licensee, is a retail licensee
13 for the purposes of ORS 471.398 and, except as otherwise provided by this
14 section and ORS 471.400, may not accept directly or indirectly any financial
15 assistance described in ORS 471.398 from any manufacturer or wholesaler,
16 as defined in ORS 471.392. A brewery-public house licensee, or any person
17 having an interest in the licensee, is also a manufacturer for the purposes
18 of ORS 471.398 and, except as otherwise provided by this section and ORS
19 471.400, may not provide directly or indirectly any financial assistance de-
20 scribed in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The
21 prohibitions on financial assistance in ORS 471.398 do not apply to financial
22 assistance between manufacturing and retail businesses licensed to the same
23 person under the provisions of this section.

24 “(b) The commission may issue more than one brewery-public house li-
25 cense at a single premises if each licensee:

26 “(A) Has a valid Brewer’s Notice issued by the federal Alcohol and To-
27 bacco Tax and Trade Bureau at the premises address; and

28 “(B) Otherwise complies with ORS 471.398.

29 “(c) A brewery-public house licensee may produce malt beverages for an-
30 other brewery-public house licensee under a custom order agreement. The

1 commission may adopt rules regarding the contents of custom order agree-
2 ments.

3 “(5) Notwithstanding subsection (3) of this section, a brewery-public house
4 licensee, or any person having an interest in the licensee, may also hold a
5 winery license authorized by ORS 471.223. A brewery-public house licensee,
6 or any person having an interest in the licensee, may also hold a warehouse
7 license authorized by ORS 471.242.

8 “(6) Notwithstanding subsection (3) of this section, a brewery-public house
9 licensee is eligible for limited on-premises sales licenses and temporary sales
10 licenses.

11 “(7) Notwithstanding subsection (3) of this section, a brewery-public house
12 licensee, or any person having an interest in the licensee, may also hold a
13 full on-premises sales license. If a person holds both a brewery-public house
14 license and a full on-premises sales license, nothing in this chapter shall
15 prevent the sale by the licensee of both distilled liquor and malt beverages
16 manufactured under the brewery-public house license.

17 “(8) Notwithstanding any other provision of this chapter, a brewery-public
18 house licensee, or any person having an interest in the licensee, may also
19 hold a distillery license. No provision of this chapter prevents a brewery-
20 public house licensee that also holds a distillery license from being appointed
21 by the commission as the distillery’s retail outlet agent for the purpose of
22 selling distilled liquors under ORS 471.230.

23 “(9) Notwithstanding subsection (3) of this section, the commission by
24 rule may authorize a brewery-public house licensee to coproduce special
25 events with other manufacturers.

26 “(10)(a) Notwithstanding subsection (3) of this section, a brewery-public
27 house licensee may hold, directly or indirectly, an interest in a manufacturer
28 or wholesaler, provided that the interest does not result in exercise of con-
29 trol over, or participation in the management of, the manufacturer’s or
30 wholesaler’s business or business decisions and does not result in exclusion

1 of any competitor's brand of alcoholic liquor.

2 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
3 wholesaler, and any officer, director or substantial stockholder of any cor-
4 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
5 terest in a brewery-public house licensee, provided that the interest does not
6 result in exercise of control over, or participation in the management of, the
7 licensee's business or business decisions and does not result in exclusion of
8 any competitor's brand of alcoholic liquor.

9 “(11) **A brewery-public house licensee may purchase for sale at re-**
10 **tail:**

11 “(a) **Wine and cider only from the holder of a license or permit is-**
12 **sued by the commission that authorizes the sale of wine or cider at**
13 **wholesale to licensees of the commission; and**

14 “(b) **Malt beverages not manufactured by the brewery-public house**
15 **licensee only from the holder of a license or permit issued by the**
16 **commission that authorizes the sale of malt beverages at wholesale to**
17 **licensees of the commission.**

18 “(12) **On or before the 20th day of each month, a brewery-public**
19 **house licensee shall submit to the commission a report showing the**
20 **quantity of malt beverages, wine or cider received from the holder of**
21 **a direct to retailer permit issued under ORS 471.274 during the imme-**
22 **diately preceding calendar month, and any other information required**
23 **by the commission by rule.**

24 “[~~(11)~~] (13) For purposes of ORS chapter 473, a brewery-public house
25 licensee shall be considered to be a manufacturer.

26 “(14) **The commission may adopt rules to carry out this section.**

27 “**SECTION 8.** ORS 471.244 is amended to read:

28 “471.244. (1) [~~No~~] **A licensee of the Oregon Liquor and Cannabis Com-**
29 **mission [*shall*] may not** manufacture, import into, or purchase in the State
30 of Oregon for resale therein any malt beverages, cider or wine unless the

1 manufacturer of [*such*] **the** malt beverages, cider or wine has first obtained
2 from the commission a certificate of approval, except that with respect to
3 malt beverages, cider or wine manufactured outside the United States, the
4 certificate of approval may be obtained by the person importing same into
5 the United States.

6 “(2) [*Such*] **A** certificate of approval [*shall*] **may** be granted only to
7 manufacturers or importers [*who shall have entered*] **that enter** into an
8 agreement with the commission to furnish a report to the commission, on or
9 before the 20th day of each month, showing the quantity of malt beverages,
10 cider or wine delivered to each licensee of the commission during the pre-
11 ceding calendar month, and to faithfully comply with all laws of the State
12 of Oregon pertaining to traffic in malt beverages, cider or wine. [*If any*
13 *holder of such certificate, or any officer, agent or employee of such holder,*
14 *shall violate any term or provision of such agreement, or submit any false or*
15 *fictitious report, the commission may, in its discretion, suspend or revoke such*
16 *certificate.*]

17 “[2] (3) The commission may grant special certificates of approval to
18 manufacturers and importers of malt beverages, cider or wine. A special
19 certificate of approval has the effect of a certificate of approval granted
20 under [*subsection (1) of*] this section, but is valid only for a period of 30 days.

21 “**SECTION 9.** ORS 471.272 is amended to read:

22 “471.272. (1) **Malt beverages,** wine or cider may be shipped or transported
23 by a licensee or permit holder described in subsection (2) of this section only
24 by employees of the licensee or permit holder, or by a common carrier using
25 a commission-approved delivery plan. The holder of a [*wine self-distribution*]
26 **direct to retailer** permit that uses a common carrier to ship or transport
27 **malt beverages,** wine or cider shall take reasonable steps to ensure that the
28 **malt beverages,** wine or cider is sold and transported only to licensees that
29 are authorized to receive the **malt beverages,** wine or cider under ORS
30 471.274.

1 “(2) The provisions of this section apply to persons holding [*wine self-*
2 *distribution*] **direct to retailer** permits and the holders of winery licenses,
3 grower sales privilege licenses, wholesale malt beverage and wine licenses
4 and warehouse licenses issued by the commission.

5 **“SECTION 10.** ORS 471.274 is amended to read:

6 “471.274. [(1) *The Oregon Liquor and Cannabis Commission may issue a*
7 *wine self-distribution permit to a United States manufacturer of wine or cider.*
8 *The commission may issue a wine self-distribution permit only to a manufac-*
9 *turer of wine or cider that:*]

10 “[*(a) Holds a license issued by another state that authorizes the manufac-*
11 *ture of wine or cider; and*]

12 “[*(b) Holds a certificate of approval issued under ORS 471.244.*]

13 “[*(2) The holder of a wine self-distribution permit may sell at wholesale and*
14 *transport wine or cider that the manufacturer produces directly to the com-*
15 *mission, or to retail licensees in the manner provided by this section. A wine*
16 *self-distribution permit allows the holder to sell wine or cider that the holder*
17 *produces only to retail licensees who hold a valid endorsement issued by the*
18 *commission authorizing receipt of wine or cider from the holder of a wine*
19 *self-distribution permit.*]

20 “[*(3) In addition to the information required by ORS 471.311 for licenses,*
21 *an applicant for a wine self-distribution permit shall provide the commission*
22 *with a copy of the license held by the applicant or with sufficient information*
23 *to allow verification of the license by electronic means or other means accept-*
24 *able to the commission. The applicant also shall provide the commission with*
25 *any information required by the commission to establish that the license held*
26 *by the applicant authorizes the manufacture of wine or cider.*]

27 “[*(4) A person holding a wine self-distribution permit is responsible for*
28 *paying all taxes imposed under ORS chapter 473, and for complying with all*
29 *reporting requirements imposed by ORS chapter 473, for all wine and cider*
30 *sold and transported to retail licensees in this state. The commission may re-*

1 *voke, or refuse to issue, a wine self-distribution permit if the holder of a permit*
2 *fails to pay taxes or make reports as required by ORS chapter 473.]*

3 *“(5) A retail licensee may receive wine or cider from the holder of a wine*
4 *self-distribution permit only if the licensee has received prior authorization*
5 *from the commission. Prior authorization under this subsection must be made*
6 *by an endorsement to the license for the premises where the wine or cider will*
7 *be received. The commission may not charge or collect a fee for an endorsement*
8 *under this subsection.]*

9 *“(6)(a) Except as provided in paragraph (b) of this subsection, a retail*
10 *licensee that receives wine or cider from holders of wine self-distribution per-*
11 *mits must make a monthly report to the commission, using a form prescribed*
12 *by the commission, listing the amount of all wine or cider received from permit*
13 *holders in the previous month, and the names of the permit holders from whom*
14 *the wine or cider was received. Retail licensees shall retain such purchase re-*
15 *ords for products received from permit holders as may be required by the*
16 *commission.]*

17 *“(b) The holder of a full or limited on-premises sales license is not required*
18 *to file a report under this subsection for any month in which the licensee re-*
19 *ceives two or fewer cases of wine from holders of wine self-distribution*
20 *permits.]*

21 *“(7) A manufacturer that is not licensed by the commission may sell and*
22 *transport wine or cider directly to a retail licensee, and a retail licensee may*
23 *receive wine or cider directly from a manufacturer that is not licensed by the*
24 *commission, only if the manufacturer holds a wine self-distribution permit is-*
25 *sued under this section.]*

26 *“(8) The holder of a wine self-distribution permit consents to the jurisdic-*
27 *tion of the commission and the courts of this state for the purpose of enforcing*
28 *the provisions of this chapter, ORS chapter 473 and any related laws or*
29 *rules.]*

30 *“(9) The holder of a wine self-distribution permit must post a bond or other*

1 *security, as described in ORS 471.155.]*

2 “[*(10) The commission may revoke, or refuse to issue, a wine self-*
3 *distribution permit if the holder of a permit fails to comply with any provision*
4 *of this section.*.]

5 “**(1) The Oregon Liquor and Cannabis Commission may issue a di-**
6 **rect to retailer permit to a manufacturer of malt beverages, wine or**
7 **cider that:**

8 “**(a) Is a resident of another state or territory of the United States;**

9 “**(b) Is licensed by the other state or territory to manufacture malt**
10 **beverages, wine or cider; and**

11 “**(c) Holds a certificate of approval issued under ORS 471.244.**

12 “**(2) The holder of a direct to retailer permit may, in the manner**
13 **provided by this section, sell at wholesale and transport malt**
14 **beverages, wine or cider that the holder of the direct to retailer permit**
15 **produced, fermented, manufactured or blended directly to the com-**
16 **mission or the holder of a license issued under ORS 471.175, 471.178,**
17 **471.186, 471.190 or 471.200.**

18 “**(3) A person may apply for a direct to retailer permit by submit-**
19 **ting to the commission, in a form and manner prescribed by the**
20 **commission:**

21 “**(a) An application;**

22 “**(b) A copy of the applicant’s license described in subsection (1)(c)**
23 **of this section or information sufficient to allow the commission to**
24 **verify the license by electronic or other means; and**

25 “**(c) Any other information required by the commission to establish**
26 **that the applicant’s license authorizes the manufacture of malt**
27 **beverages, wine or cider and that the applicant has a history of com-**
28 **pliance with the laws of the other state or territory.**

29 “**(4) The holder of a direct to retailer permit is responsible for pay-**
30 **ing all taxes imposed under ORS chapter 473 as a manufacturer or**

1 **importing distributor, and for complying with all reporting require-**
2 **ments imposed by ORS chapter 473 for all malt beverages, wine and**
3 **cider sold and transported to a holder of a license issued under ORS**
4 **471.175, 471.178, 471.186, 471.190 or 471.200.**

5 **“(5) The holder of a direct to retailer permit consents to the juris-**
6 **diction of the commission and the courts of this state for the purpose**
7 **of enforcing the provisions of this chapter and ORS chapter 473 and**
8 **ORS 459A.700 to 459A.744, 474.005 to 474.095 and 474.115 and any related**
9 **laws or rules.**

10 **“(6) The holder of a direct to retailer permit shall post a bond or**
11 **other security as described in ORS 471.155.**

12 **“(7) The holder of a direct to retailer permit may not in a calendar**
13 **year sell at wholesale and transport to the holder of a license issued**
14 **under ORS 471.175, 471.178, 471.186, 471.190 or 471.200 a combined total**
15 **of more than 7,500 barrels of malt beverages described in subsection**
16 **(2) of this section.**

17 **“(8) A direct to retail permit must be renewed annually. The holder**
18 **of a direct to retail permit may apply for renewal by submitting to the**
19 **commission:**

20 **“(a) An application in the form and manner prescribed by the**
21 **commission; and**

22 **“(b) The fee specified in ORS 471.311.**

23 **“(9) The holder of a direct to retailer permit is a manufacturer or**
24 **wholesaler for the purposes of ORS 471.392 to 471.400.**

25 **“SECTION 11. ORS 471.282 is amended to read:**

26 **“471.282. (1) Notwithstanding any other provision of this chapter and ex-**
27 **cept as provided by ORS 471.175, 471.178 and 471.186, a person may sell and**
28 **ship malt beverages, wine or cider directly to a resident of Oregon only if**
29 **the person holds a direct shipper permit. The Oregon Liquor and Cannabis**
30 **Commission shall issue a direct shipper permit only to:**

1 “(a) A person that holds a license issued by this state or another state
2 **or territory of the United States** that authorizes the manufacture of malt
3 beverages, wine or cider;

4 “(b) A person that holds a license issued by this state or another state
5 **or territory of the United States** that authorizes the sale of wine or cider
6 produced only from grapes or other fruit grown under the control of the
7 person;

8 “(c) A person that holds a license authorizing the sale of malt beverages,
9 wine or cider at retail; or

10 “(d) A person that holds a temporary sales license under ORS 471.190, if
11 the shipments of malt beverages, wine or cider made by the person are de-
12 livered only during the term of validity of the temporary sales license.

13 “[(2) *The holder of a direct shipper permit that is a licensee of another state*
14 *may deliver malt beverages under the permit only if that other state makes*
15 *direct shipper permits, or the equivalent, available for the delivery of malt*
16 *beverages by persons holding a license issued by the commission authorizing*
17 *the manufacture or retail sale of malt beverages.*]

18 “[(3)(a)] **(2)(a)** A person may apply for a direct shipper permit by filing
19 an application with the commission in a form and manner prescribed by the
20 commission.

21 “[(b) *If the application is based on a license issued by this state, the person*
22 *shall include in the application the number of the license issued to the*
23 *person.*]

24 “[(c)] **(b)** If the application is based on a license issued by another state
25 **or territory of the United States**, the person shall include in the applica-
26 tion a true copy of the license issued to the person by the other state or
27 include sufficient information to allow verification of the license by elec-
28 tronic means or other means acceptable to the commission.

29 “[(d)] **(c)** If the application is based on a license issued by another state
30 **or territory of the United States**, or the application is by a person de-

1 scribed in subsection (1)(d) of this section, the person shall pay a \$100 reg-
2 istration fee and maintain a bond or other security described in ORS 471.155
3 in the minimum amount of \$1,000.

4 “[4] **(3)(a)** Sales and shipments **of malt beverages, wine or cider** under
5 a direct shipper permit:

6 “[a] **(A)** May be made only to a person who is at least 21 years of age;

7 “[b] **(B)** May be made only for personal use and not for the purpose of
8 resale; and

9 “[c] **(C)** May not exceed:

10 “[A] **(i)** Two cases of cider or malt beverages that contain not more than
11 nine liters per case to any resident per month; or

12 “[B] **(ii)** Five cases of wine that contain not more than nine liters per
13 case to any resident per month.

14 **“(b) Only an individual who is at least 21 years of age may receive**
15 **malt beverages, wine or cider from the holder of a direct shipper per-**
16 **mit, for the purposes and in the amount described in paragraph (a)**
17 **of this subsection.**

18 “[5] **(4)** Sales and shipments under a direct shipper permit must be made
19 directly to a resident of this state in containers that are conspicuously la-
20 beled with the words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON
21 AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY[.]’ **or similar**
22 **language adopted by the commission by rule.**

23 “[6] **(5)** [A *person holding*] **The holder of** a direct shipper permit shall
24 take all actions necessary to ensure that a carrier used by the permit holder
25 does not deliver any malt beverages, wine or cider unless the carrier:

26 **“(a)** Obtains the signature of the recipient of the malt beverages, wine
27 or cider upon delivery;

28 **“(b)** Verifies by inspecting government-issued photo identification that the
29 recipient is at least 21 years of age; and

30 **“(c)** Determines that the recipient is not visibly intoxicated at the time

1 of delivery.

2 “[7)(a)] **(6)(a)** [A *person holding*] **The holder of** a direct shipper permit
3 shall report to the commission on a quarterly basis all shipments of malt
4 beverages, wine or cider made to Oregon residents under the permit. The
5 report must be made in a form prescribed by the commission.

6 “(b) [A *person holding*] **The holder of** a direct shipper permit shall allow
7 the commission to audit the permit holder’s records upon request and shall
8 make those records available to the commission in this state.

9 “(c) [A *person holding*] **The holder of** a direct shipper permit consents
10 to the jurisdiction of the commission and the courts of this state for the
11 purpose of enforcing the provisions of this section and any related laws or
12 rules.

13 “[8)(a)] **(7)(a)** [A *person holding*] **The holder of** a direct shipper permit
14 shall **comply with all relevant reporting requirements and** timely pay
15 to the commission all taxes imposed under ORS chapter 473 on malt
16 beverages, wine and cider sold and shipped under the permit. For the purpose
17 of the privilege tax imposed under ORS chapter 473, all malt beverages, wine
18 or cider sold and shipped pursuant to a direct shipper permit is sold in this
19 state.

20 “(b) [A *person holding*] **The holder of** a direct shipper permit based on
21 a license issued by another state **or territory of the United States** shall
22 timely pay to the commission all taxes imposed under ORS chapter 473 on
23 all malt beverages, wine or cider sold and shipped directly to Oregon resi-
24 dents under the permit. The permit holder, not the purchaser, is responsible
25 for the tax.

26 “[9)(a)] **(8)(a)** A direct shipper permit must be renewed annually.

27 “(b) If the person holds the permit based on an annual license issued by
28 another state **or territory of the United States**, the person may renew the
29 permit by paying a \$100 renewal fee and providing the commission with a
30 true copy of a current license issued to the person by the other state or with

1 sufficient information to allow verification of the license by electronic means
2 or other means acceptable to the commission.

3 “(c) If the person holds the permit based on an annual license issued by
4 this state, the person may renew the permit at the same time that the person
5 renews the license.

6 “[~~(10)~~ *The commission may refuse to issue or may suspend or revoke a di-*
7 *rect shipper permit if the permit holder fails to comply with the provisions of*
8 *this section. A person may sell and ship malt beverages, wine or cider under*
9 *a direct shipper permit only for as long as the person has the license issued*
10 *by this state or another state that authorizes the person to hold a direct shipper*
11 *permit. A direct shipper permit does not authorize the shipment of malt*
12 *beverages by a permit holder described in subsection (1)(b) of this section or*
13 *lacking authority as provided under subsection (2) of this section.*]

14 “[~~(11)~~] **(9)** Any person who knowingly or negligently delivers malt
15 beverages, wine or cider under the provisions of this section to a person
16 under 21 years of age, or who knowingly or negligently delivers malt
17 beverages, wine or cider under the provisions of this section to a visibly
18 intoxicated person, violates ORS 471.410.

19 “[~~(12)~~] **(10)** A person may not make sales and shipments of malt beverages,
20 wine or cider directly to Oregon residents unless the person holds a direct
21 shipper permit issued under this section. Any person who knowingly makes,
22 participates in, transports, imports or receives a shipment of malt beverages,
23 wine or cider that is in violation of this section commits a misdemeanor as
24 provided in ORS 471.990 (1).

25 **“(11) The holder of a direct shipper permit that is based on a license**
26 **issued by another state or territory of the United States is a man-**
27 **ufacturer or wholesaler for the purposes of ORS 471.392 to 471.400.**

28 **“SECTION 12.** ORS 471.311 is amended to read:

29 “471.311. (1) An applicant for a license or renewal of a license under this
30 chapter shall submit an application to the Oregon Liquor and Cannabis

1 Commission on a form provided by the commission that includes the name
2 and address of the applicant, location of the place of business that is to be
3 operated under the license, and any other pertinent information the com-
4 mission may require. The commission may not grant or renew a license until
5 the applicant has complied with the provisions of this chapter and the rules
6 of the commission.

7 “(2) The commission may reject any application that is not submitted in
8 the form required by rule. The commission shall give applicants an opportu-
9 nity to be heard if an application is rejected. A hearing under this subsection
10 is not subject to the requirements for contested case proceedings under ORS
11 chapter 183.

12 “(3) Subject to subsection (4) of this section, the commission shall assess
13 a nonrefundable fee for processing a renewal application for any license au-
14 thorized by this chapter only if the renewal application is received by the
15 commission less than 20 days before expiration of the license. If the renewal
16 application is received prior to expiration of the license but less than 20 days
17 prior to expiration, the fee shall be 25 percent of the annual license fee. If
18 a renewal application is received by the commission after expiration of the
19 license but no more than 30 days after expiration, the fee shall be 40 percent
20 of the annual license fee. This subsection does not apply to a certificate of
21 approval, a brewery-public house license or any license that is issued for a
22 period of less than 30 days.

23 “(4) The commission may waive the fee imposed under subsection (3) of
24 this section if the commission finds that failure to submit a timely applica-
25 tion was due to unforeseen circumstances or to a delay in processing the
26 application by the local governing authority that is no fault of the licensee.

27 “(5) The license fee is nonrefundable and, except as provided in subsection
28 (6) of this section, must be paid by each applicant upon the granting or
29 committing of a license. Subject to ORS 471.155 and 473.065, the annual or
30 daily license fee and the minimum bond required of each class of license

1 under this chapter are as follows:

2 “

		Minimum	
	License	Fee	Bond
5	Brewery, including Certificate		
6	of Approval	\$ 1,000	\$ 1,000
7	Winery	\$ 500	\$ 1,000
8	Distillery	\$ 200	None
9	Wholesale Malt Beverage		
10	and Wine	\$ 550	\$ 1,000
11	Warehouse	\$ 200	\$ 1,000
12	Brewery-Public House,		
13	including Certificate		
14	of Approval	\$ 500	\$ 1,000
15	Limited On-Premises Sales	\$ 400	None
16	Off-Premises Sales	\$ 200	None
17	Temporary Sales	\$ 50 per day	
18	Grower sales privilege		
19	license	\$ 500	\$ 1,000
20	Special events brewery		
21	license	\$ 10 per day	
22	Special events winery		
23	license	\$ 10 per day	
24	Special events grower		
25	sales privilege		
26	license	\$ 10 per day	
27	Special events		
28	brewery-public house		
29	license	\$ 10 per day	
30	Special events		

1 distillery

2 license \$ 10 per day

3 “

4 “(6) The commission may allow an applicant to defer payment, or may
5 waive payment, of an annual license fee imposed under subsection (5) of this
6 section, if the Governor declares a state of emergency under ORS 401.165 or
7 a state of public health emergency under ORS 433.441. The commission may
8 by rule establish requirements for an applicant to qualify for deferral or
9 waiver of an annual license fee.

10 “(7) The fee for a certificate of approval or special certificate of approval
11 granted under ORS 471.244 is nonrefundable and must be paid by each ap-
12 plicant upon the granting or committing of a certificate of approval or spe-
13 cial certificate of approval. A bond is not required for the granting of a
14 certificate of approval or special certificate of approval. Certificates of ap-
15 proval are valid for a period commencing on the date of issuance and ending
16 on December 31 of the fifth calendar year following the calendar year of is-
17 suance. The fee for a certificate of approval is \$350. Special certificates of
18 approval are valid for a period of 30 days. The fee for a special certificate
19 of approval is \$10.

20 “(8) Except as provided in subsection (9) of this section, the annual li-
21 cense fee for a full on-premises sales license is \$800. A bond is not required
22 for any full on-premises sales license.

23 “(9) The annual license fee for a full on-premises sales license held by a
24 nonprofit private club as described in ORS 471.175 [(9)] (11), or held by a
25 nonprofit or charitable organization that is registered with the state, is \$400.

26 “(10) The fee for temporary use of an annual license is \$10 per day.

27 “(11) The annual fee for a [*wine self-distribution*] **direct to retailer** per-
28 mit is \$200, and the minimum bond is \$1,000.

29 “**SECTION 13.** ORS 471.313 is amended to read:

30 “471.313. (1) The Oregon Liquor and Cannabis Commission may refuse to

1 issue a license, or may issue a restricted license, to any applicant under the
2 provisions of this chapter if the commission has reasonable ground to believe
3 any of the following to be true:

4 “[1] (a) That there are sufficient licensed premises in the locality set
5 out in the application, or that the granting of a license in the locality set
6 out in the application is not demanded by public interest or convenience. In
7 determining whether there are sufficient licensed premises in the locality,
8 the commission shall consider seasonal fluctuations in the population of the
9 locality and shall ensure that there are adequate licensed premises to serve
10 the needs of the locality during the peak seasons.

11 “[2] (b) That the applicant has not furnished an acceptable bond as re-
12 quired by ORS 471.311 or is not maintaining the insurance or bond required
13 by ORS 471.168.

14 “[3] (c) That, except as allowed by ORS 471.392 to 471.400, any applicant
15 to sell at retail for consumption on the premises has been financed or fur-
16 nished with money or property by, or has any connection with, or is a man-
17 ufacturer of, or wholesale dealer in, alcoholic liquor.

18 “[4] (d) That the applicant:

19 “[a] (A) Is in the habit of using alcoholic beverages, habit-forming drugs
20 or controlled substances to excess.

21 “[b] (B) Has made false statements to the commission.

22 “[c] (C) Is incompetent or physically unable to carry on the management
23 of the establishment proposed to be licensed.

24 “[d] (D) Has been convicted of violating a general or local law of this
25 state or another state, or of violating a federal law, if the conviction is
26 substantially related to the fitness and ability of the applicant to lawfully
27 carry out activities under the license.

28 “[e] (E) Has maintained an insanitary establishment.

29 “[f] (F) Is not of good repute and moral character.

30 “[g] (G) *[Did not have a good record of compliance with the alcoholic li-*

1 *quor laws of this state and the rules of the commission when previously li-*
2 *censed]* **Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to**
3 **474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to**
4 **475C.919 or ORS chapter 471 or 473 or rules adopted by the commission**
5 **pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,**
6 **475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS**
7 **chapter 471 or 473.**

8 “*[(h)]* **(H)** Is not the legitimate owner of the business proposed to be li-
9 censed, or other persons have ownership interests in the business which have
10 not been disclosed.

11 “*[(i)]* **(I)** Is not possessed of or has not demonstrated financial responsi-
12 bility sufficient to adequately meet the requirements of the business proposed
13 to be licensed.

14 “*[(j)]* **(J)** Is unable to read or write the English language or to understand
15 the laws of Oregon relating to alcoholic liquor or the rules of the commis-
16 sion.

17 “*[(5)]* **(e)** That there is a history of serious and persistent problems in-
18 volving disturbances, lewd or unlawful activities or noise either in the
19 premises proposed to be licensed or involving patrons of the establishment
20 in the immediate vicinity of the premises if the activities in the immediate
21 vicinity of the premises are related to the sale or service of alcohol under
22 the exercise of the license privilege. Behavior *[which]* **that** is grounds for
23 refusal of a license under this section, where so related to the sale or service
24 of alcohol, includes, but is not limited to obtrusive or excessive noise, music
25 or sound vibrations; public drunkenness; fights; altercations; harassment;
26 unlawful drug sales; alcohol or related litter; trespassing on private property;
27 and public urination. Histories from premises currently or previously oper-
28 ated by the applicant may be considered when reasonable inference may be
29 made that similar activities will occur as to the premises proposed to be li-
30 censed. The applicant may overcome the history by showing that the prob-

1 lems are not serious or persistent or that the applicant demonstrates a
2 willingness and ability to control adequately the premises proposed to be li-
3 censed and patrons' behavior in the immediate vicinity of the premises
4 [*which*] **that** is related to the licensee's sale or service of alcohol under the
5 licensee's exercise of the license privilege.

6 **“(2) The commission may refuse to issue a certificate under ORS**
7 **471.244 or permit under ORS 471.274 or 471.282, or may issue a restricted**
8 **certificate or permit, if the commission has reasonable grounds to**
9 **believe that the applicant:**

10 **“(a) Is in the habit of using alcoholic beverages, habit-forming**
11 **drugs or controlled substances to excess.**

12 **“(b) Has made false statements to the commission.**

13 **“(c) Has been convicted of violating a general or local law of this**
14 **state or another state, or of violating a federal law, if the conviction**
15 **is substantially related to the fitness and ability of the applicant to**
16 **lawfully carry out activities related to the certificate or permit.**

17 **“(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to**
18 **474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to**
19 **475C.919 or ORS chapter 471 or 473 or rules adopted by the commission**
20 **pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,**
21 **475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS**
22 **chapter 471 or 473.**

23 **“(e) Does not have a good record of compliance with the alcoholic**
24 **liquor laws and rules of any other jurisdiction.**

25 **“SECTION 14. ORS 471.315 is amended to read:**

26 **“471.315. (1) The Oregon Liquor and Cannabis Commission may cancel,**
27 **suspend, restrict or require mandatory training for any license issued under**
28 **this chapter, or impose a civil penalty in lieu of or in addition to a suspen-**
29 **sion as provided by ORS 471.322, if the commission finds or has reasonable**
30 **ground to believe any of the following to be true:**

1 “(a) That the licensee:
2 “(A) Has violated any provision of this chapter or ORS 474.115 or any rule
3 of the commission adopted pursuant thereto.
4 “(B) Has made any false representation or statement to the commission
5 in order to induce or prevent action by the commission.
6 “(C) Is not maintaining an acceptable bond as required by ORS 471.311
7 or is not maintaining the insurance or bond required by ORS 471.168.
8 “(D) Has maintained an insanitary establishment.
9 “(E) Is insolvent or incompetent or physically unable to carry on the
10 management of the establishment of the licensee.
11 “(F) Is in the habit of using alcoholic liquor, habit-forming drugs or
12 controlled substances to excess.
13 “(G) Has knowingly sold alcoholic liquor to persons under 21 years of age
14 or to persons visibly intoxicated at the time of sale.
15 “(H) Has allowed the consumption of alcoholic liquor on the licensed
16 premises by a person who is visibly intoxicated at the time of consumption.
17 “(I) Has misrepresented to a customer or the public any alcoholic liquor
18 sold by the licensee.
19 “(J) Since the granting of the license, has been convicted of a felony, of
20 violating any of the liquor laws of this state, general or local, or of any
21 misdemeanor or violation of any municipal ordinance committed on the li-
22 censed premises.
23 “(b) That any person licensed to sell at retail for consumption on the
24 premises is acting as an agent of, or is a manufacturer or wholesaler of al-
25 coholic liquors, or has borrowed money or property, or has accepted
26 gratuities or rebates, or has obtained the use of equipment from any man-
27 ufacturer or wholesaler of alcoholic liquor or any agent thereof.
28 “(c) That there is a history of serious and persistent problems involving
29 disturbances, lewd or unlawful activities or noise either in the premises or
30 involving patrons of the establishment in the immediate vicinity of the

1 premises if the activities in the immediate vicinity of the premises are re-
2 lated to the sale or service of alcohol under the exercise of the license
3 privilege. Behavior that is grounds for cancellation or suspension of a license
4 under this section, where so related to the sale or service of alcohol, includes
5 but is not limited to obtrusive or excessive noise, music or sound vibrations;
6 public drunkenness; fights; altercations; harassment or unlawful drug sales;
7 alcohol or related litter; trespassing on private property; and public
8 urination. Mitigating factors include a showing by the licensee that the
9 problems are not serious or persistent or that the licensee has demonstrated
10 a willingness and ability to control adequately the licensed premises and
11 patrons' behavior in the immediate vicinity of the premises which is related
12 to the licensee's sale or service of alcohol under the licensee's exercise of the
13 license privilege.

14 “(d) That there is any other reason that, in the opinion of the commission,
15 based on public convenience or necessity, warrants canceling or suspending
16 such license.

17 **“(2) The commission may cancel, suspend or restrict a certificate**
18 **issued under ORS 471.244 or permit issued under ORS 471.274 or 471.282,**
19 **or impose a civil penalty in lieu of or in addition to a suspension of a**
20 **certificate or permit as provided by ORS 471.327, if the commission has**
21 **reasonable grounds to believe that the certificate or permit holder:**

22 **“(a) Is in the habit of using alcoholic beverages, habit-forming**
23 **drugs or controlled substances to excess.**

24 **“(b) Has made false statements to the commission.**

25 **“(c) Has been convicted of violating a general or local law of this**
26 **state or another state, or of violating a federal law, if the conviction**
27 **is substantially related to the fitness and ability of the applicant to**
28 **lawfully carry out activities related to the certificate or permit.**

29 **“(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to**
30 **474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to**

1 **475C.919 or ORS chapter 471 or 473 or rules adopted by the commission**
2 **pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,**
3 **475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS**
4 **chapter 471 or 473.**

5 **“(e) Does not have a good record of compliance with the alcoholic**
6 **liquor laws and rules of any other jurisdiction.**

7 **“(f) Or any officer, agent or employee of the certificate or permit**
8 **holder, violated any term or provision of an agreement entered into**
9 **pursuant to ORS 471.244 or submitted a false or fictitious report pur-**
10 **suant to the agreement.**

11 **“[(2)] (3) Civil penalties under this section shall be imposed as provided**
12 **in ORS 183.745.**

13 **“SECTION 15. ORS 471.327 is amended to read:**

14 **“471.327. (1) The Oregon Liquor and Cannabis Commission, in suspending**
15 **any brewery license, wholesale wine license, wholesale malt beverage license,**
16 **direct shipper permit, direct to retailer permit or certificate of approval,**
17 **may:**

18 **“(a) Further impose against the licensee or the holder of the permit or**
19 **certificate of approval a civil penalty not to exceed \$5,000[,]; or[,]**

20 **“(b) In [its discretion, may impose such] the commission’s discretion,**
21 **impose the civil penalty without suspending the license [or the], permit**
22 **or certificate of approval.**

23 **“(2) Civil penalties under this section shall be imposed as provided in**
24 **ORS 183.745.**

25 **“SECTION 16. ORS 471.329 is amended to read:**

26 **“471.329. (1) For the purpose of determining whether there is a history**
27 **of serious and persistent problems involving noise under the provisions of**
28 **ORS 471.313 [(5)] and 471.315 (1)(c), or whether the licensee maintains a noisy**
29 **establishment in violation of the provisions of ORS 471.425:**

30 **“(a) Noise from the inside of a licensed premises located within the**

1 boundaries of a city or county that has an ordinance regulating excessive
2 noise may be considered obtrusive or excessive only if the noise violates the
3 ordinance;

4 “(b) Noise caused by patrons outside a licensed premises located within
5 the boundaries of a city or county that has an ordinance regulating excessive
6 noise may be considered obtrusive or excessive only if the noise violates the
7 ordinance or if the noise is of a type that a reasonable person would not
8 expect to hear outside a premises licensed for the sale of alcoholic beverages;
9 and

10 “(c) Noise caused by patrons inside or outside a licensed premises located
11 within the boundaries of a city or county that does not have an ordinance
12 regulating excessive noise may be considered obtrusive or excessive only if
13 the noise is of the type that a reasonable person would not expect to hear
14 inside or outside a premises licensed for the sale of alcoholic beverages.

15 “(2) For the purpose of determining whether noise is obtrusive under the
16 provisions of ORS 471.313 [(5)] and 471.315 (1)(c), or whether the licensee
17 maintains a noisy establishment in violation of the provisions of ORS
18 471.425, the Oregon Liquor and Cannabis Commission shall consider whether
19 persons complaining about the noise have taken any action to mitigate the
20 disturbance alleged to have been caused by the noise.

21 **“SECTION 17.** ORS 471.331 is amended to read:

22 “471.331. (1) Whenever the Oregon Liquor and Cannabis Commission pro-
23 poses to refuse to renew or to suspend or cancel any license issued under this
24 chapter because of adverse neighborhood impact of the licensee’s operation,
25 notwithstanding ORS 183.435, the commission shall grant the affected
26 licensee 20 days from notification of the proposed commission action to re-
27 quest a hearing.

28 “(2) Notwithstanding ORS 183.482 (3), the Oregon Liquor and Cannabis
29 Commission shall not stay any order refusing a license or suspending or
30 canceling any license if the order was entered on grounds stated in ORS

1 471.313 [(5)] or 471.315 (1)(c).

2 **“SECTION 18.** ORS 471.392 is amended to read:

3 “471.392. For the purposes of ORS 471.392 to 471.400:

4 “(1) ‘Manufacturer or wholesaler’ means:

5 “(a) A person holding a brewery license issued under ORS 471.221, a
6 winery license issued under ORS 471.223, a grower sales privilege license is-
7 sued under ORS 471.227, a distillery license issued under ORS 471.230, a
8 wholesale malt beverage and wine license issued under ORS 471.235 [or], a
9 warehouse license issued under ORS 471.242 **or a direct to retailer permit**
10 **issued under ORS 471.274.**

11 “(b) Any manufacturer of alcoholic liquors whose products are sold in the
12 State of Oregon.

13 “(2) ‘Retail licensee’ means the holder of a full or limited on-premises
14 sales license, an off-premises sales license or a temporary sales license. ‘Re-
15 tail licensee’ does not include a bona fide trade association that represents
16 retail licensees and that is open to all persons licensed under at least one
17 type of retail license.

18 **“SECTION 19.** ORS 471.404 is amended to read:

19 “471.404. (1) Alcoholic liquor may not be imported into this state by any
20 person other than a holder of a brewery, winery, distillery or wholesaler’s
21 license, except as follows:

22 “(a) Alcoholic liquor ordered by and en route to the Oregon Liquor and
23 Cannabis Commission, under a certificate of approval issued by the commis-
24 sion.

25 “(b) Wines for sacramental purposes according to rules adopted by the
26 commission.

27 “(c) Alcoholic liquor that is in transit on a common carrier to a destina-
28 tion outside Oregon.

29 “(d) Alcoholic liquor coming into Oregon on a common carrier according
30 to orders placed by a licensed brewery, winery or wholesaler.

1 “(e) Grain and ethyl alcohol for scientific, pharmaceutical, manufacturing,
2 mechanical or industrial use, under a certificate of approval issued by the
3 commission.

4 “(f) **Malt beverages**, wine or cider that is sold and transported by the
5 holder of a [*wine self-distribution permit to a retail licensee that has the*
6 *endorsement described in*] **direct to retailer permit pursuant to** ORS
7 471.274 [(5)].

8 “(g) Malt beverages, wine or cider shipped directly to a resident of this
9 state under a direct shipper permit issued pursuant to ORS 471.282.

10 “(2) The commission may require importers of alcoholic liquor to pay a
11 reasonable handling fee based on the quantity and type of alcoholic liquor
12 being imported.

13 **“SECTION 20.** ORS 471.412 is amended to read:

14 “471.412. (1) A licensee or permittee may not allow a person to consume
15 or to continue to consume alcoholic beverages on the licensed premises after
16 observing that the person is visibly intoxicated.

17 “(2) A licensee or permittee is not in violation of subsection (1) of this
18 section if the licensee or permittee makes a good faith effort to remove any
19 unconsumed alcoholic beverages from the person’s possession when the
20 licensee or permittee observes that the person is visibly intoxicated.

21 “(3) Nothing in this section applies to determining liability under ORS
22 471.565.

23 “(4) Notwithstanding any other provision of law, the Oregon Liquor and
24 Cannabis Commission shall only impose letters of reprimand for the first
25 three violations of this section within a two-year period. For license renewal
26 purposes, the first three violations of this section in a two-year period do
27 not apply in determining the past record of compliance under ORS 471.313
28 [(4)(g)] (1)(d)(G).

29 **“SECTION 21.** ORS 473.045 is amended to read:

30 “473.045. (1) A tax is hereby imposed upon the sale or use of all agricul-

1 tural products used in a winery for making wine.

2 “(2) The amount of the tax shall be \$25 per ton of grapes of the vinifera
3 varieties, whether true or hybrid.

4 “(3) An equivalent tax is imposed upon the sale or use of vinifera or hy-
5 brid grape products imported for use in a winery licensed under ORS chapter
6 471 for making wine. Such tax shall be \$25 per ton of grapes used to produce
7 the imported grape product. The tax shall be determined on the basis of one
8 ton of grapes for each 150 gallons of wine made from such vinifera or hybrid
9 grape products.

10 “(4) A tax on the sale or use of products that are not subject to subsection
11 (2) or (3) of this section that are used to make wine in this state shall be
12 imposed at a rate of \$.021 per gallon of wine made from those products.

13 “(5)(a) In the case of vinifera or hybrid grape products harvested in this
14 state, \$12.50 per ton of the tax shall be levied and assessed against the person
15 selling or providing the grape products to the winery and, except as provided
16 in ORS 473.046, \$12.50 per ton shall be levied and assessed against the winery
17 purchasing the grape products.

18 “(b) If the purchasing winery is licensed under ORS chapter 471 or holds
19 a [*wine self-distribution*] **direct to retailer** permit, direct shipper permit or
20 certificate of approval, the purchasing winery shall pay the \$25 per ton tax
21 and deduct \$12.50 per ton from the price paid to the person selling or pro-
22 viding the grape products to the winery.

23 “(c) If the purchasing winery is not licensed under ORS chapter 471 and
24 does not hold a [*wine self-distribution*] **direct to retailer** permit, direct
25 shipper permit or certificate of approval, the person selling or providing the
26 grape products to the winery shall report the sale on forms provided by the
27 Oregon Liquor and Cannabis Commission and pay \$12.50 per ton as a tax
28 directly to the commission.

29 “(6) Moneys that a winery deducts for taxes described in subsection (5)
30 of this section and forwards to the commission shall be collected by the

1 commission on behalf of the Oregon Wine Board. The commission may retain
2 an amount sufficient to cover the cost of collecting the taxes paid under
3 subsection (5) of this section and shall transfer the remainder of those taxes
4 to the board for deposit as provided in ORS 576.877. Failure to pay a tax
5 imposed under subsection (5) of this section subjects the violator to the
6 penalty provided in ORS 473.992.

7 “(7) If a winery deducts and pays the tax imposed on an item under this
8 section, resale of the item in bulk to an out-of-state buyer does not subject
9 the out-of-state buyer to the imposition of tax under this section.

10 “(8) Except for the tax specified in subsection (4) of this section the taxes
11 specified under this section shall be levied and assessed to the winery at the
12 time of purchase of the product by the winery or of importation of the
13 product, whichever is later. The tax specified in subsection (4) of this section
14 shall be levied and assessed to the licensed winery at the time the wine is
15 made.

16 “(9) The taxes imposed by this section shall be paid to and collected by
17 the commission subject to the same powers as taxes imposed and collected
18 under ORS chapter 473. The tax obligation for a calendar year shall be paid
19 in two installments. Half shall be due on December 31 of the current calen-
20 dar year. The remaining half shall be due the following June 30.

21 “(10) The commission may adopt rules for carrying out this section.

22 “**SECTION 22.** ORS 473.065 is amended to read:

23 “473.065. (1) If a manufacturer’s total tax liability under ORS 473.030 (1)
24 in the previous calendar year was less than \$1,000, the manufacturer may
25 deposit with the Oregon Liquor and Cannabis Commission an amount in cash
26 equal to the manufacturer’s total tax liability under ORS 473.030 (1) for the
27 previous calendar year in lieu of the bond required by ORS 471.155 (1).

28 “(2) If a manufacturer’s actual tax liability under ORS 473.030 (1) is less
29 than the amount deposited under subsection (1) of this section, the man-
30 ufacturer may request that the commission refund the excess funds or may

1 apply those funds toward the manufacturer's tax liability under ORS 473.030
2 (1) for the next calendar year.

3 “(3) If a manufacturer's actual tax liability under ORS 473.030 (1) is
4 greater than the amount deposited under subsection (1) of this section, the
5 manufacturer shall pay to the commission the additional amount owed in the
6 manner required under ORS 473.060.

7 “(4) Unless the commission determines that a winery, grower sales privi-
8 lege or warehouse licensee or direct shipper or [*wine self-distribution*] **direct**
9 **to retailer** permit holder presents an unusual risk for nonpayment of any
10 license fees, privilege taxes, agricultural products taxes or other tax, penalty
11 or interest imposed under this chapter or ORS chapter 471, the commission
12 shall waive the bond required under ORS 471.155 (1) for the licensee or per-
13 mit holder if:

14 “(a) The licensee or permit holder was not liable for a privilege tax under
15 this chapter in the immediately preceding calendar year and does not expect
16 to be liable for a privilege tax under this chapter in the current calendar
17 year; or

18 “(b) The licensee or permit holder of a business established during the
19 current calendar year does not expect to be liable for a privilege tax under
20 this chapter in the current calendar year. As used in this paragraph, ‘busi-
21 ness’ means:

22 “(A) A winery.

23 “(B) A business operated pursuant to a license issued under ORS 471.227.

24 “(C) A warehouse.

25 “(D) A business operated pursuant to a permit issued under ORS 471.274.

26 “(E) A business operated pursuant to a permit issued under ORS 471.282.

27 “**SECTION 23.** ORS 473.150 is amended to read:

28 “473.150. (1) The Oregon Liquor and Cannabis Commission may, at any
29 time, examine the books and records of a holder of a [*wine self-distribution*]
30 **direct to retailer** permit or of any manufacturer of wine, cider or malt

1 beverages, and may appoint auditors, investigators and other employees that
2 the commission considers necessary to enforce its powers and perform its
3 duties under this section.

4 “(2) Every holder of a [*wine self-distribution*] **direct to retailer** permit
5 and every manufacturer shall maintain and keep for three years all records,
6 books and accounts required by this chapter and shall provide copies of those
7 records, books and accounts to the commission when requested by the com-
8 mission.

9 **“SECTION 24. (1) The amendments to ORS 471.155, 471.175, 471.178,**
10 **471.184, 471.186, 471.190, 471.200, 471.244, 471.272, 471.274, 471.282, 471.311,**
11 **471.313, 471.315, 471.327, 471.329, 471.331, 471.392, 471.404, 471.412, 473.045,**
12 **473.065 and 473.150 by sections 1 to 23 of this 2023 Act become operative**
13 **on January 1, 2024.**

14 “(2) The Oregon Liquor and Cannabis Commission may take any
15 action before the operative date specified in subsection (1) of this sec-
16 tion that is necessary to enable the commission to exercise, on or after
17 the operative date specified in subsection (1) of this section, all of the
18 duties, functions and powers conferred on the commission by the
19 amendments to ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190,
20 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327,
21 471.329, 471.331, 471.392, 471.404, 471.412, 473.045, 473.065 and 473.150 by
22 sections 1 to 23 of this 2023 Act.

23 **“SECTION 25. This 2023 Act takes effect on the 91st day after the**
24 **date on which the 2023 regular session of the Eighty-second Legislative**
25 **Assembly adjourns sine die.”**

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